



A place where families and businesses thrive.

**City Council & Public Arts Commission
Joint Work Session Minutes
(Murals)**

**Monday, September 14, 2020
5:30 p.m., Community Auditorium**

***Minutes are unofficial until approved by Council.
Council approved minutes as presented October 26, 2020.***

1. ROLL CALL:

Mayor Peter Truax called the Work Session to order at 5:32 p.m. via Webex Video Conference.

COVID-19: Due to the emergency declaration resulting from COVID-19 (Coronavirus disease) and protocols, the **City Council conducted the Work Session remotely by video conferencing.**

ROLL CALL: COUNCIL PRESENT ATTENDED BY WEBEX REMOTELY: Kristy Kottkey; Timothy Rippe; Elena Uhing; Mariana Valenzuela; Adolph "Val" Valfre; Malynda Wenzl, Council President; and Mayor Peter Truax.

PUBLIC ARTS COMMISSION MEMBERS BY WEBEX REMOTELY: Kathy Broom; Amy Callahan Tracewell; Laura Frye; Michael Goetzke; Kathleen Leatham; Emily Lux, Secretary; Linda Stiles Taylor; Pat Truax, Vice Chair; Dana Eytzen, Chair.

STAFF PRESENT ATTENDED BY WEBEX REMOTELY: Jesse VanderZanden, City Manager; Ashley Driscoll, City Attorney; Tom Gamble, Parks and Recreation Director; Colleen Winters, Library Director; and Beverly Maughan, Executive Assistant to City Manager (Community Auditorium). **STAFF ABSENT:** Anna Ruggles, City Recorder, excused.

**2. COUNCIL AND PUBLIC ART COMMISSION (PAC) JOINT WORK SESSION:
MURALS**

Gamble, Winters and VanderZanden facilitated the above-noted joint work session with Council and Public Arts Commission (PAC), noting the purpose of the work session was to discuss a proposal that was received by the City in June, 2020, to create a social justice mural on the basketball/handball court west wall in Forest Glen Park.

VanderZanden advised the work session was to clarify the process, timeline and scope for the proposal and to explore the range of potential options available as outlined in the staff report. In addition, VanderZanden advised City Attorney Driscoll was in attendance for clarification of questions on art installations on public property and how and when regulations may apply. Gamble gave an overview of the background of the existing

Forest Glen Park Mural, noting the mural on the basketball/ handball court wall was an Eagle Scout project from 2015, and is an American flag on one side and the outline of the State of Oregon on the other. The 2015 mural replaced a mural done in 2006 that was composed of students' handprints from the Business Management Program at the Forest Grove High School. The students also did some deferred park-related maintenance and beautification work. The Parks and Recreation Commission (P&R) considered and approved the above-mentioned projects. Winters gave an overview of the PAC's purpose and responsibilities, the history of City Art and prior public art acquisitions as outlined in the staff report, noting the PAC was formed by resolution in January, 2006. The PAC passed an Art Collection Management Policy in 2008. The PAC has utilized various processes to obtain City Art, such as the Sun Dial at Thatcher Park (P&R approval), the Tres Novem in Lincoln Park (P&R approval), decorative benches at certain locations around town and the Fire Station painting (PAC approval).

Council Discussion:

Mayor Truax opened the floor and discussion ensued as Council, PAC and staff discussed the proposal that was received by the City to create a social justice mural on the basketball/handball court west wall in Forest Glen Park (Project Coordinators' Memo was attached to the staff report). The group jointly discussed how the PAC's involvement and that a social justice mural could align and reflect the Council's goal of *"supporting diversity, equity, and inclusion (DEI) in the delivery of city services and operations"*.

City Attorney Driscoll addressed inquiries and scenarios pertaining to the process and legal perspective of painting murals on publicly-owned city property and the City's ability to regulate murals based on the content of the murals, i.e., aligns with established city goals and objectives, and the public art becoming "government speech" rather than "private speech" on city property. VanderZanden asked at what point does it become City speech, using the examples of the different processes, to which Driscoll clarified that she is looking out for unintended consequences and if the project is the City's voice. Driscoll noted that she has not heard any comments that have led her to believe that this is not the City's voice. Driscoll explained the big test is, if the City is exerting control, speaking with its own voice, instead of acquiescing to a third-party, and is the City creating a public forum for the future. Driscoll cautioned that although the City has several options to consider, the City should funnel the request through its PAC because the Council has already delegated authority to the PAC to make recommendations regarding policies and programs. The City would also be protecting itself against future requests for artwork that are incompatible with the City's viewpoint. The general concern is if the Council does not make it explicitly clear that the City is choosing to paint the mural as an expression of its own voice, the City risks creating a situation where the City may be forced to allow other groups to paint murals (on the same wall or other city-owned property) with messages the City does not agree with and would rather not have on City property.

In response to Uhing's concerns pertaining to the formation of the PAC and processes

previously used by the PAC, Winters explained the PAC utilized various processes to obtain city art, such as calls for art and commissioning art. Mayor Truax expanded on the fact that the existing Forest Glen Park project fit best with the P&R, and not PAC, because the P&R had previously reviewed and approved Eagle Scouts' service requirement projects on city park land through a selection process.

In response to Valenzuela's concerns pertaining to who decides the City's voice, City Attorney Driscoll advised the Council has the authority to make policy decisions, noting in 2006, the Council delegated authority to the PAC to make recommendations regarding policies and programs for submission of public displays of art in locations open to the public within the community; however, the PAC has not developed robust policies for murals, i.e., establish written criteria that defines murals, describe the submission requirements and selection process, etc. Valenzuela asked for clear transparency as to why the proposed social justice mural (received in June acknowledging past victims and leaders of the Black Lives Matter movement) could not be reviewed by the P&R in the same manner as previously reviewed Eagle Scout projects, and instead having to wait until the PAC develops a policy (14 years after its formation). Valenzuela voiced concerns that the only reason that the social justice mural was being delayed was because the content was making some people very uncomfortable, which concerned her moving forward. Valenzuela noted she would have respected any viewpoints if content was the reason for the uncomfortableness. Valenzuela asked that the social justice mural that she mentioned above be shown so everyone could see it (no mural was projected).

Wenzl echoed similar concerns and that it appeared the City was changing the rules based on content, noting she wants to ensure that moving forward mistakes are corrected.

Kottkey echoed similar concerns and questioned why the proposed social justice mural was causing so much concern, i.e., why legal review and legal representation, and asked if the Eagle Scouts' projects (American Flag) received the same attention as the proposed social justice mural, to which Driscoll replied to her knowledge the City Attorney's firm was not alerted but the legal advice may have been the same five years ago. Mayor Truax reiterated why the P&R approved the Eagle Scouts' service requirement projects, i.e., same as the dog park and community garden, which were also Eagle Scout service requirement projects.

Leatham echoed similar concerns and questioned why the City needed a policy now. Mayor Truax noted that the longer a policy was delayed, the more likely similar issues could arise.

Rippe concurred referring the project to the PAC, instead of going back and forth discussing what occurred previously. Rippe commended the project coordinators for submitting a formal request and opening discussions to remove barriers and the

opportunity to apply principles that respect diversity, equity and inclusion (DEI).

Uhing voiced concern that when she read the proposal submitted it states a community of color, which she stated is exclusionary with respect to DEI. Uhing asked that the proposal include all community members (submitted in the proposal under the description of the project) regardless of color and that no one be excluded, noting she is concerned that Caucasians will not be involved in the project. Uhing expanded as to what DEI meant to her, such as including all persons of color who need economic stability and who are struggling and the focus being on community justice and not just racial justice. Uhing concurred that the PAC should be providing advisory policy recommendations to Council and both bodies should be reaching an agreement or consensus. In addition, Uhing highlighted legislative policy-related history, noting similar discussions, such as this, have made changes in the community. Uhing noted the City has to have a process and a policy in place so that everyone is treated by the same lens.

Lux indicated it would be impossible to include every voice in every piece of art, noting public art is to facilitate conversations. Lux expanded the definition of DEI work as also meaning racial justice work. Lux stated she does not understand why a mural's content that is racial justice content, would be considered the City's voice and questioned the decision-making process, to which City Attorney Driscoll addressed, noting the proposed mural is the City's voice (on city-owned property) and as such, the City is trying to determine structure and its decision-making process.

Eytzen addressed comments heard pertaining to a community of color, noting the project coordinators have submitted a mini-grant application and clarified that it is not their intent to exclude anyone.

Taylor asked if the Council requests that the PAC develop a policy for public art (murals) on public property to also consider allowing the PAC to make recommendations to the sign code, noting there is a plan for an upcoming mural festival, to which City Attorney Driscoll and VanderZanden advised the sign code pertains to private property but the code could be reviewed as well separately from this process.

Valfre indicated he is a strong believer in unintended consequences, noting it is important for the City to set up parameters and control and ensuring the City remains a welcoming community. Valfre advised his concern is that the proposal did not have a picture or an idea of framework, noting an image or something Council can see is needed in order to move forward.

Mayor Truax invited Seema Khatecherian and Karsen Buck, social justice mural proposal coordinators, to address the group. Khatecherian addressed concerns heard pertaining to social justice and excluding Caucasians, noting she believes that social justice is community justice. Khatecherian indicated they have heard from community members of

color who say the American Flag makes them feel less safe in Forest Grove because of what the flag represents. Both Khatecherian and Buck affirmed that as members of the community they feel that this mural is the City's voice. Khatecherian noted they are looking at different aspects of the project so they can include any community members who want to volunteer during the painting process. Most importantly, they want to emphasize people of color voices in the actual design process of the mural and to include historically marginalized, oppressed and excluded communities. Khatecherian asked for some sort of conclusion from the City, i.e., if the mural is deemed the City's voice, they would like their proposal to be approved on a one-by-one basis and then move forward with the goal to design a policy that can then be used, because that would be the most effective timeline for the process as they have already been involved for months now. Buck apologized for not having an image or visual clarification of the goal of the social justice mural, noting the reason is because the rendering is being designed currently and is not available in picture form. Most importantly, they want the rendering of the design to represent the indigenous communities by acknowledging all the tribes that exist in Forest Grove, four fists of varying skin colors, and which flags will be represented has been undecided because they are incorporating the voices of the community members of color to help inform the design format so they are included in the local community's input in the project. Buck noted they would likely get the design submitted in the future. In addition, Buck affirmed that they have included language to the proposal and grant application to welcome all community members to help with the painting process. Buck pointed out that Forest Grove used to be active Ku Klux Klan (KKK) territory and there are people who have felt unsafe because of racial tension, so they want to emphasize Forest Grove as being safe and welcoming when they drive into town and see the mural and not just an American Flag.

In conclusion of the above-noted roundtable discussion, City Attorney Driscoll advised Council of the process and VanderZanden recapped the potential options as outlined in the staff report, to which Council collectively concurred to proceed with a two-step process:

- (1) Refer the proposal for the social justice mural to the PAC to request it consider if the mural aligns with established City goals and objectives and making a recommendation to the Council regarding the proposal; and
- (2) Refer to the PAC to develop policies and procedures for public art (murals) on public property and make a recommendation to the Council.

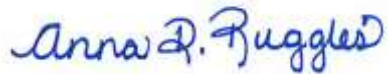
In addition, VanderZanden advised Council to consider making formal motions during the regular Council meeting this evening, which would allow the PAC to meet and staff could begin working on a draft resolution for Council consideration for the next Council meeting, which Council collectively concurred.

Council took no formal action nor made any formal decisions during the work session.

3. **ADJOURNMENT**

Mayor Truax adjourned the work session at 6:55 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder